

SB 80-FN - VERSION ADOPTED BY BOTH BODIES

03/13/2025 0734s
06/26/2025 2902EBA

2025 SESSION

25-0933
08/05

SENATE BILL **80-FN**

AN ACT consolidating licensing, auditing, and enforcement responsibilities for wholesale and retail e-cigarettes sales under the liquor commission.

SPONSORS: Sen. Lang, Dist 2; Sen. Pearl, Dist 17; Rep. Almy, Graf. 17

COMMITTEE: Commerce

AMENDED ANALYSIS

This bill consolidates licensing, auditing, and enforcement responsibilities for wholesale and retail e-cigarettes sales under the liquor commission. The bill also provides for tobacco tax certificates to be issued by the department of revenue administration and licenses issued by the liquor commission.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT consolidating licensing, auditing, and enforcement responsibilities for wholesale and retail e-cigarettes sales under the liquor commission.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Notice to Liquor Commission. Amend RSA 78:23 to read as follows:

2 78:23 Notice to Liquor Commission. The commissioner shall provide notice to the liquor
3 commission of ***a violation of this chapter*** by a retailer, ~~[whose license has been suspended or~~
4 ~~revoked by the commission]~~ ***wholesaler, or manufacturer that results in an assessment,***
5 ***penalty, seizure, suspension or revocation.***

6 2 Definitions; Tobacco Product. Amend RSA 126-K:2, XI to read as follows:

7 XI. "Tobacco product" means any product containing, ***made or derived from tobacco or***
8 ***nicotine that is intended for human consumption, including but not limited to cigarettes,***
9 ***electronic cigarettes, loose tobacco, smokeless tobacco, and cigars. Tobacco products shall***
10 ***not include premium cigars or any product that has been approved by the United States***
11 ***Food and Drug Administration for sale as a tobacco cessation product and is being***
12 ***marketed and sold exclusively for such approved use.*** ~~[or derived from tobacco including, but~~
13 ~~not limited to, cigarettes, smoking tobacco, cigars, chewing tobacco, snuff, pipe tobacco, smokeless~~
14 ~~tobacco, and smokeless cigarettes. "Tobacco product" shall not include drugs, devices, or combination~~
15 ~~products authorized for sale by the United States Food and Drug Administration, as those terms are~~
16 ~~defined in the federal Food, Drug, and Cosmetic Act.]~~

17 3 Definitions; E-Cigarette. Amend RSA 175:1, XXXI-a to read as follows:

18 XXXI-a. "E-cigarette" means any electronic smoking device composed of a mouthpiece, a
19 heating element, a battery, and electronic circuits that may or may not contain nicotine or e-liquid.
20 This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, or e-
21 pipes, or under any other product name, ***and e-liquid.*** "E-liquid" means any liquid, oil, or wax
22 product containing, but not limited to, nicotine or cannabis intended for use in devices used for
23 inhalation.

24 4 Tobacco Products; Definitions. Amend RSA 175:1, LXIV-d to read as follows:

25 LXIV-d. "Tobacco products" means ***any product containing, made, or derived from***
26 ***tobacco or nicotine that is intended for human consumption, including but not limited to***
27 ***cigarettes, e-cigarettes, loose tobacco, smokeless tobacco, and cigars. Tobacco products***
28 ***shall not include premium cigars or any product that has been approved by the United***
29 ***States Food and Drug Administration for sale as a tobacco cessation product and is being***

1 *marketed and sold exclusively for such approved use.* [~~cigarettes, loose tobacco, and smokeless~~
2 ~~tobacco.~~]

3 *LXIV-e. "Tobacco products manufacturer" means a person domiciled in the United*
4 *States engaged in the business of importing, exporting, producing, or manufacturing*
5 *tobacco products.*

6 *LXIV-f. "Tobacco products wholesaler" means any person engaged in the business of*
7 *receiving, storing, purchasing, and selling tobacco products from any source for*
8 *distribution to persons other than consumers, except those persons exempted from the*
9 *tobacco tax under RSA 78:5.*

10 [~~LXIV-e.~~] *LXIV-g. "Vending machine" means any self-service device which, upon insertion of*
11 *money, tokens, or any other form of payment, dispenses tobacco, cigarettes, or any other tobacco*
12 *product.*

13 5 Licenses; Manufacture, Wholesale Sales. Amend RSA 178:2, I to read as follows:

14 I. The commission may issue licenses to individuals, partnerships, limited liability
15 companies and partnerships, or corporations but not to unincorporated associations, on applications
16 duly made therefor for the manufacture, warehousing, sale, offer for sale, or solicitation of orders for
17 sale of liquor or beverages and for *the manufacture, wholesale sales, or* retail sales of tobacco
18 products or e-cigarettes within the state, subject to the limitations and restrictions imposed by this
19 title. The commission shall keep a full record of all applications for licenses, of all recommendations
20 for and remonstrances against the granting of licenses, and of the action taken on such applications.

21 6 Retail Tobacco Licenses. Amend RSA 178:19-a to read as follows:

22 178:19-a Retail Tobacco [~~License~~] *Licenses.*

23 I. The commission may issue a retail tobacco license to a person engaged in the business of
24 retail sales and distribution of tobacco products including e-cigarettes and alternative nicotine
25 products in this state. Each retail outlet shall have a separate license regardless of the fact that one
26 or more outlets may be owned or controlled by a single person.

27 I-a. The commission may issue a retail tobacco license to any business holding a license to
28 sell alcoholic beverages under RSA 178 for an additional fee of \$6 per licensed location.

29 II. A retail tobacco license shall be prominently displayed on the premises described in it.

30 III. The commission, when issuing or renewing a retail tobacco license, shall furnish a sign
31 which shall read or be substantially similar to the following: "State Law prohibits the sale of tobacco
32 products or e-cigarettes to persons under age 21. Warning: violators of these provisions may be
33 subject to a fine."

34 IV. All *retail* sales of tobacco, including e-cigarettes, shall be recorded on cash registers. No
35 additional registers shall be added during the remainder of the year without prior approval of the
36 commission. No rebate shall be allowed for cash registers discontinued during the license year.

37 V. The fee for a retail tobacco license shall be as determined in RSA 178:29, II(e).

1 VI. All New Hampshire tobacco licensees shall abide by all federal laws, regulations, and
2 rules governing the sale, packaging, distribution and advertising of tobacco products, e-cigarettes,
3 liquid nicotine, and alternative nicotine products.

4 VII. *All retail tobacco licenses shall purchase their tobacco products from a*
5 *licensed tobacco products wholesaler as defined in RSA 175:1, LXIV-f.*

6 VIII. *Each retailer shall keep complete and accurate records of all tobacco*
7 *products bought and sold in this state. Complete records shall be safely preserved for 3*
8 *years to ensure permanency and accessibility for inspection by the liquor commission.*

9 IX. The commission may adopt rules under RSA 541-A necessary to effect the purposes of
10 this section.

11 7 New Sections; Tobacco Products; Licenses. Amend RSA 178 by inserting after section 19-d the
12 following new sections:

13 178:19-e Tobacco Products Manufacturer.

14 I. No tobacco products manufacturer shall engage in the business of selling or distributing
15 tobacco products, including e-cigarettes, in this state, unless it is registered with the secretary of
16 state, it has obtained a tobacco tax certificate from the department of revenue administration, and it
17 is licensed as a tobacco products manufacturer in this state, as applicable.

18 II. The fees for tobacco products manufacturer licenses and license renewals shall be as
19 determined in RSA 178:29, V-a(a) and (d):

20 III. Any tobacco products manufacturer of tobacco products, including e-cigarettes, that
21 ceases business operations requiring a license under this chapter during the license period shall
22 inform the liquor commission in writing and relinquish its license to the liquor commission within 30
23 days after ceasing business operations.

24 IV. Each manufacturer shall keep complete and accurate records of all tobacco products
25 manufactured, produced, imported, distributed, bought, and sold in this state. Complete records
26 shall be safely preserved for 3 years to ensure permanency and accessibility for inspection by the
27 liquor commission.

28 V. The commission shall adopt rules under RSA 541-A relative to this section.

29 178:19-f Tobacco Product Wholesaler.

30 I. No tobacco products wholesaler shall engage in the business of selling or distributing
31 tobacco products, including e-cigarettes, in this state, unless it is registered with the secretary of
32 state, it has obtained a tobacco tax certificate from the department of revenue administration, and it
33 is licensed as a tobacco products wholesaler in this state, as applicable.

34 II. A wholesaler shall have a separate license for each location.

35 III. The fees for wholesaler licenses and license renewals shall be as determined in RSA
36 178:29, V-a(a) and (d):

1 IV. All wholesale tobacco licensees shall purchase their tobacco products from a licensed
2 tobacco products manufacturer as defined in RSA 175:1 LXIV-f.

3 V. Any wholesaler of tobacco products, including e-cigarettes, that ceases business
4 operations requiring a license under this chapter during the license period shall inform the liquor
5 commission in writing and relinquish its license to the liquor commission within 30 days after
6 ceasing business operations.

7 VI. Each wholesaler, shall keep complete and accurate records of all tobacco stamps
8 purchased and all tobacco products manufactured, produced, imported, distributed, bought, and sold
9 in this state. Complete records shall be safely preserved for 3 years to ensure permanency and
10 accessibility for inspection by the liquor commission.

11 VII. The commission shall adopt rules under RSA 541-A relative to this section.
12 178:19-g Tobacco Product Seizure.

13 I. The commission with or without process may seize:

14 (a) Tobacco products taxed under RSA 78 that are possessed or controlled by a person for
15 the purpose of selling or removing the tobacco products in violation of this chapter or RSA 78;

16 (b) Tobacco products that are removed, deposited, or concealed by a person intending to
17 avoid payment of taxes imposed by RSA 78;

18 (c) An automobile, truck, boat, conveyance, or other type of vehicle used to remove or
19 transport tobacco products by a person intending to avoid payment of taxes imposed by RSA 78; and

20 (d) Equipment, paraphernalia, or other tangible personal property used by a person
21 intending to avoid payment of taxes imposed by RSA 78 found in the place where the tobacco
22 products are found.

23 II. An item seized under this section is forfeited to the state and remains in the custody of
24 the commission for disposition as provided by this section. The seized item is not subject to replevin.

25 III. The seizure, forfeiture, and sale of tobacco products or property under this section, with
26 or without court action, is not a defense to criminal prosecution for an offense or from liability for a
27 penalty under RSA 78 or this chapter.

28 178:19-h Notice to Department of Revenue Administration. The commissioner shall provide
29 notice to the department of revenue administration of a violation of RSA 178:19-a, 178:19-b, 178:19-c,
30 178:19-e, or 178:19-f by a retailer, wholesaler, or manufacturer that results in an assessment,
31 penalty, seizure, suspension or revocation.

32 8 Fees; Tobacco. RSA 178:29, V-a is repealed and reenacted to read as follows:

33 V-a. Annual tobacco licenses shall be as follows:

34 (a) Tobacco manufacturer, \$100.

35 (b) Tobacco vending machine license, \$35, plus \$6 for each machine.

36 (c) Tobacco sampling license, \$6.

37 (d) Tobacco product wholesaler, \$250.

1 9 New Paragraphs; Penalties; Tobacco. Amend RSA 179:58 by inserting after paragraph II the
2 following new paragraphs:

3 III. Any person who sells, offers for sale, or possesses with intent to sell in this state any
4 tobacco products or e-cigarettes without the appropriate license, as provided in this title, shall be
5 subject to criminal penalties as provided in RSA 21-J:39.

6 IV. Notwithstanding RSA 21-J:14, information regarding licenses issued pursuant to this
7 chapter and RSA 126-K shall be public records.

8 10 New Paragraph; Suspension or Revocation. Amend RSA 179:57 by inserting after paragraph
9 I-a the following new paragraph:

10 I-b. License suspension for a violation of RSA 78:26 shall be as provided in RSA 78:26, VII.

11 11 Tobacco Tax; Licenses and Tobacco Tax Certificates Required. Amend RSA 78:6 - 78:9 to
12 read as follows:

13 78:6 Licenses **and Tobacco Tax Certificates** Required.

14 I. No manufacturer or wholesaler shall engage in the business of selling or distributing
15 tobacco products in this state, unless registered with the secretary of state, ~~and~~ licensed as a
16 manufacturer or wholesaler in this state **under RSA 178 and holding a tobacco tax certificate**
17 **issued under this chapter**, as applicable.

18 II. No retailer or sampler shall engage in the business of selling or distributing tobacco
19 products in this state, unless licensed to sell or distribute tobacco products under RSA 178.

20 III. A wholesaler shall have a separate license **and tobacco tax certificate** for each
21 location.

22 IV. The fees for [~~licenses and license~~] **tobacco tax certificates and tobacco tax**
23 **certificate** renewals shall be:

24 (a) \$100 for a manufacturer's [~~license~~] **tobacco tax certificate**; and

25 (b) \$250 for a wholesaler's [~~license~~] **tobacco tax certificate**.

26 V. Each license **and tobacco tax certificate** shall be prominently displayed in the
27 premises described in it.

28 VI. Licenses **and tobacco tax certificates** shall not be transferable.

29 VII. Any wholesaler or manufacturer that ceases business operations requiring a license **or**
30 **tobacco tax certificate** under this chapter during the license **or certificate** period shall inform the
31 department in writing and relinquish its license **to the liquor commission and its tobacco tax**
32 **certificate** to the department within 30 days after ceasing business operations.

33 VIII. Each manufacturer, wholesaler, sampler, and retailer shall keep complete and
34 accurate records of all tobacco stamps purchased and all tobacco products manufactured, produced,
35 imported, distributed, bought, and sold in this state. Complete records shall be safely preserved for
36 3 years to insure permanency and accessibility for inspection by the commissioner.

1 IX. Any person who sells, offers for sale, or possesses with intent to sell in this state any
2 tobacco products without the appropriate license **and tobacco tax certificate**, as provided in this
3 section or RSA 178, shall be subject to criminal penalties as provided in RSA 21-J:39.

4 X. Notwithstanding RSA 21-J:14, information regarding [~~licenses~~] **tobacco tax certificates**
5 issued pursuant to this section, **licenses issued pursuant to** RSA 178 [~~as it pertains to licenses for~~
6 ~~the retail sale of tobacco products~~], and RSA 126-K[;] shall be public records.

7 78:7 Tobacco Product Sales Between Licensees **and Certificate Holders**.

8 I. No manufacturer or wholesaler shall sell tobacco products in this state to any
9 manufacturer, wholesaler, retailer, or sampler that does not possess an appropriate [~~license~~]
10 **tobacco tax certificate** issued by the commissioner [~~or~~] **and license issued** by the liquor
11 commission under RSA 178.

12 II. A manufacturer shall sell tobacco products, without indicia of tax paid under RSA 78:10
13 or RSA 78:14, as applicable, only to a wholesaler licensed by this state.

14 III. A wholesaler shall purchase tobacco products, without indicia of tax paid under RSA
15 78:10 or RSA 78:14, as applicable, only from a manufacturer or wholesaler licensed by this state
16 **under RSA 178 and holding a tobacco tax certificate issued under this chapter**.

17 IV. A wholesaler shall sell tobacco products to a retailer or sampler in this state only if it
18 provides indicia of tax paid under RSA 78:10 or RSA 78:14, as applicable, to the purchaser **under**
19 **RSA 178 and holding a tobacco tax certificate issued under this chapter**.

20 V. No retailer or sampler shall purchase tobacco products without indicia of tax paid under
21 RSA 78:10 or RSA 78:14, as applicable. A retailer shall not sell tobacco products without indicia of
22 tax paid under RSA 78:10 or RSA 78:14, as applicable.

23 VI. A retailer shall neither purchase tobacco products from nor sell tobacco products to
24 another retailer, unless the purchase or sale is a one-time transfer of the seller's entire tobacco
25 product inventory and the seller discontinues the tobacco line of business. The selling retailer shall
26 return its license to the liquor commission and shall file an inventory of the tobacco products
27 transferred, along with indicia of tax paid, with the department, within 30 days of the transfer of the
28 tobacco products.

29 VII. Any person who violates a provision of this section may be subject to tobacco products
30 seizure and license suspension or revocation under this chapter, and criminal penalties under RSA
31 21-J:39.

32 78:8 [~~License~~] **Tobacco Tax Certificate** Application and Renewal.

33 I. Manufacturers and wholesalers intending to engage in the business of selling or
34 distributing tobacco products in this state shall apply to the department providing the applicable fee
35 as provided in RSA 78:6, IV, and all information required by the commissioner through rules
36 adopted under RSA 541-A.

1 II. [~~License~~] **Tobacco tax certificates** shall expire on June 30 in each even-numbered
2 year.

3 III. Manufacturers and wholesalers in good standing with the department may renew their
4 [~~licenses~~] **tobacco tax certificates** upon application and payment of the applicable fees. A
5 manufacturer or wholesaler is not in good standing with the department if the manufacturer or
6 wholesaler is delinquent in its payment of applicable fees, fines, or penalties resulting from
7 violations of this chapter, delinquent in its payment of any taxes, penalties, or interest due under
8 any tax administered by the department, or delinquent in its payment of applicable fees, fines, or
9 penalties resulting from violation of RSA 126-K.

10 78:9 Denial of [~~License~~] **Tobacco Tax Certificate** Application.

11 I. The commissioner may deny a manufacturer's or wholesaler's application for a [~~license~~]
12 **tobacco tax certificate**, for any of the following reasons:

13 (a) The applicant's [~~license~~] **tobacco tax certificate** was revoked by the commissioner
14 under RSA 78:20.

15 (b) The commissioner believes that the application is filed by a person as a subterfuge
16 for the real person in interest whose [~~license~~] **tobacco tax certificate** was revoked by the
17 commissioner under RSA 78:20.

18 (c) The applicant, or a person or entity that owns or has a right to control any interest in
19 the applicant, is not in good standing with the department as described in RSA 78:8, III.

20 (d) The applicant, or a person or entity that owns or has a right to control any interest in
21 the applicant, has been convicted of a crime provided for in this chapter, or in any other state for a
22 crime related to tobacco tax, within a 2-year period prior to the date on which the application is filed.

23 (e) The applicant, or a person or entity that owns or has a right to control any interest in
24 the applicant, has been convicted of a crime involving theft or fraud in this state or any other state,
25 within a 2-year period prior to the date on which the application is filed.

26 (f) The commissioner, pursuant to rules adopted under RSA 541-A, determines that the
27 applicant, or a person or entity that owns or has a right to control any interest in the applicant, is
28 not financially responsible or otherwise not a suitable person to manufacture, or purchase or sell
29 tobacco products at wholesale, in this state.

30 II. The commissioner shall notify the applicant of the denial in writing.

31 III. An applicant aggrieved by the denial of a license may petition for redetermination or
32 reconsideration within 60 days after the commissioner issues the notice of denial in accordance with
33 the procedures provided in RSA 21-J:28-b.

34 12 Indicia of Tax Paid-Cigarettes; Stamps. Amend RSA 78:10, V to read as follows:

35 V. A wholesaler or vending machine operator licensed under RSA 178 **and holding a**
36 **tobacco tax certificate** may possess, with an intent to sell, cigarettes or little cigars bearing a

1 foreign state's tax stamp or indicia only if the licensee is currently and legitimately doing business in
2 that state.

3 13 Indicia of Tax Paid - Other Tobacco Products. Amend RSA 78:14, III to read as follows:

4 III. Indicia of tax paid includes, but is not limited to, all invoices from all wholesalers
5 purchased from within the preceding 24 months. At a minimum, invoices shall contain the names
6 and addresses of the seller and the purchaser, the license *and tobacco tax certificate* numbers of
7 the seller and purchaser, the date of purchase of the product, the type and brand of each product, the
8 quantity of each product, the purchase price of each product, and an affirmative statement from the
9 wholesaler that all taxes on the product have been paid.

10 14 Enforcement; Documentation Required. Amend RSA 78:15, IV-VII to read as follows:

11 IV. Wholesalers, retailers, and samplers shall maintain their statements and records at the
12 places of business identified in their [licensees] *tobacco tax certificates* for a period of 12 months
13 from the date of manufacture, purchase, acquisition, or sale, whichever is later.

14 V. The records required of wholesalers shall include a written statement containing:

- 15 (a) The name and address of both the seller and the purchaser;
16 (b) The date of delivery;
17 (c) The quantity of tobacco products;
18 (d) The trade name and brand of the tobacco products;
19 (e) The price paid for each brand of tobacco products purchased; and
20 (f) Any other records or statements as the commissioner may reasonably require.

21 VI. Every manufacturer and wholesaler shall deliver with each sale or distribution of
22 tobacco products a written statement, and retain a duplicate, containing:

- 23 (a) The name or trade name and address of both the seller and the purchaser;
24 (b) The date of delivery;
25 (c) The quantity of tobacco products; and
26 (d) The trade name or brand of the tobacco products, correctly itemizing the prices paid

27 for each brand of tobacco products purchased.

28 VII. No [licensee] *tobacco tax certificate holder* shall issue or accept any written
29 statement that the [licensee] *certificate holder* knows to contain any statement that falsely
30 indicates the name of the customer, the type of merchandise, the prices, discounts, or the terms of
31 sale. Nor shall any [licensee] *certificate holder* insert, in any invoice given or accepted, any
32 statement that makes the invoice a false record of the transaction it represents. Nor shall any
33 [licensee] *certificate holder* give or accept any invoice that withholds statements so that the
34 invoice does not truly reflect the transaction it represents.

35 15 Enforcement; Suspension; Revocation; Penalties; Reinstatement. Amend RSA 78:19 - 78:22
36 to read as follows:

1 78:19 Administrative Hearings on [~~License~~] **Tobacco Tax Certificate** Suspension or
2 Revocation and Seizure and Forfeiture of Contraband Tobacco Products.

3 I. Within 10 days after a seizure of tobacco products under RSA 78:18, the commissioner
4 shall schedule and notice a hearing at which the owner shall have an opportunity to show cause as to
5 why the seizure was inappropriate.

6 II. To suspend or revoke a [~~license~~] **tobacco tax certificate** under RSA 78:20, the
7 commissioner shall provide the [~~licensee~~] **certificate holder** with notice and a hearing at which the
8 [~~licensee~~] **certificate holder** shall have an opportunity to show cause as to why the suspension or
9 revocation is inappropriate.

10 III. The commissioner shall issue a final order in writing following a hearing under
11 paragraph I or II.

12 IV. Within 30 days of the notice of a final order by the commissioner, the [~~licensee~~]
13 **certificate holder**, owner, or other person, as applicable may appeal the final order by written
14 application to the board of tax and land appeals. The board of tax and land appeals shall hear the
15 appeal de novo.

16 78:20 Suspension or Revocation of [~~License~~] **Tobacco Tax Certificate**.

17 I. The commissioner, after notice and hearing under RSA 78:19, may suspend for a
18 period of time not to exceed 90 days, or revoke any [~~license~~] **tobacco tax certificate** issued under
19 this chapter [~~or RSA 178 as it relates to licensure for the retail sale or sampling of tobacco products,~~]
20 or uphold the denial of a [~~license~~] **tobacco tax certificate** for any one of the following reasons:

21 (a) The [~~licensee~~] **certificate holder** fails to file any return or report required by this
22 chapter.

23 (b) The [~~licensee~~] **certificate holder** files a return, report, or affidavit required by this
24 chapter, which is false.

25 (c) The [~~licensee~~] **certificate holder** fails to collect, truthfully account for, or pay over
26 any tax due under this chapter.

27 (d) The [~~licensee~~] **certificate holder**, or a person or entity that owns or has a right to
28 control any interest in the [~~licensee~~] **certificate holder**, has been convicted of, or has admitted to
29 sufficient facts to support a finding of guilt of, any violation under this chapter, any violation under
30 federal law where the conduct underlying the conviction or admission relates to tobacco products, or
31 any violation of law involving dishonesty or fraud, within a 5-year period in the case of a
32 misdemeanor or within a 10-year period in the case of a felony.

33 (e) Tobacco products without indicia of tax paid have been seized from the licensee's
34 business premises and held by the department as contraband on one or more occasions during a 5-
35 year period.

36 (f) The [~~licensee~~] **certificate holder** has refused to permit, hindered, or obstructed an
37 examination, investigation, or search authorized under RSA 78:16.

1 (g) The [licensee] **certificate holder**, or a person or entity that owns or has a right to
2 control any interest in the [licensee] **certificate holder**, is not a suitable person for licensure in New
3 Hampshire, as determined by the commissioner pursuant to rules adopted under RSA 541-A.

4 (h) **The certificate holder has had a license issued under RSA 178 suspended or**
5 **revoked.**

6 II. [License] **Tobacco tax certificate** suspension for a violation of RSA 78:26 shall be as
7 provided in RSA 78:26, VII.

8 78:21 Administrative Penalties.

9 I. Administrative penalties for violation of RSA 78:26 shall be in accordance with RSA 78:26,
10 VII.

11 II. In addition to, or in lieu of, a period of [license] **tobacco tax certificate** suspension, the
12 commissioner may assess an administrative fine against any wholesaler who satisfies RSA 78:2, III,
13 who has sold tobacco product without indicia of tax paid, or against any retailer who has purchased
14 tobacco products without indicia of tax paid, as follows:

15 (a) First offense-\$500.

16 (b) Second offense-\$1,500.

17 (c) Third offense-\$5,000.

18 78:22 Reinstatement After Revocation. The commissioner may reinstate a revoked [license]
19 **tobacco tax certificate** if he or she is satisfied that the former [licensee] **certificate holder** will
20 comply with the provisions of this chapter.

21 16 New Paragraph; Importation of Certain Tobacco Products Prohibited; Federal Requirements;
22 Cigarettes and Other Tobacco Products; Placement of Labels; Penalty; Definition of License. Amend
23 RSA 78:26 by inserting after paragraph IX the following new paragraph:

24 X. In this section, "license" means a license issued under RSA 178 and the tobacco tax
25 certificate issued under this chapter.

26 17 Tobacco Tax; Rulemaking; Tobacco Tax Certificates. Amend RSA 78:27 to read as follows:

27 78:27 Rulemaking.

28 The commissioner shall adopt rules under RSA 541-A relative to the following:

29 I. The use, purchase, and purpose of tobacco stamps.

30 II. [License] **Tobacco tax certificate** application processes.

31 III. Documentation required to be maintained by [licensees] **tobacco tax certificate**
32 **holders.**

33 IV. Application of credits and refunds for taxes paid on other tobacco products.

34 V. Roll-your-own tobacco.

35 VI. Refund process for stamps on outdated, damaged, or unsaleable cigarettes.

36 VII. Documentation and filing requirements for [licensees] **tobacco tax certificate holders**
37 with regard to the Master Settlement Agreement.

- 1 VIII. [~~Licenses~~] *Tobacco tax certificates*, forms, reports, and returns.
- 2 IX. Hearings procedures.
- 3 X. Any other matter necessary to the proper administration and enforcement of this chapter.
- 4 18 Effective Date. This act shall take effect July 1, 2025.

SB 80-FN- FISCAL NOTE
AS AMENDED BY THE SENATE (AMENDMENT #2025-0734s)

AN ACT consolidating licensing, auditing, and enforcement responsibilities for wholesale and retail e-cigarettes sales under the liquor commission.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	\$22,450	\$22,450	\$22,450
<i>Revenue Fund(s)</i>	Liquor Fund			
Expenditures*	\$0	In Excess of \$560,000	In Excess of \$358,000	In Excess of \$368,000
<i>Funding Source(s)</i>	Liquor Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

METHODOLOGY:

This bill consolidates licensing, auditing, and enforcement responsibilities for wholesale and retail e-cigarettes sales under the Liquor Commission. The bill also provides for tobacco tax certificates to be issued by the Department of Revenue Administration and licenses issued by the Liquor Commission.

The Liquor Commission assumes the bill would transfer licensing of retail, wholesale and manufacturing including licensing revenue from the Department of Revenue Administration (DRA) to the Commission. The bill does not provide for transfer of positions from the DRA to the Commission and does not provide any funding to the Commission to carry out the new responsibilities. The bill does not establish any new positions; however the Commission states four additional positions would be needed; two Investigator I positions who would be sworn officers, one Examiner II position and one Licensure Specialist. The estimated annual salary and benefit costs for these positions is \$340,000 in FY 2026, \$358,000 in FY 2027, and \$368,000 in FY 2028. The Commission notes that DRA personnel are civilian positions, but the Commission would employ sworn officers for the 2 investigator positions. The Commission indicates the initial additional equipment costs would be approximately \$100,000 for each investigator, including a fully-equipped vehicle, and \$10,000 for both the Examiner and Licensure Specialist positions. Additional office space and new, secure, evidentiary storage

space, for seizures made as a result of investigations, will be needed. This storage space would need to be separate from current evidence storage areas used to carry out federal tobacco compliance programs. The Commission indicates it is unclear if it would utilize the licensing process, including hardware and software, that is currently used by the DRA to carry out this responsibility.

The bill amends RSA 178:29, V-a relative to liquor licenses and fees, by adding annual licenses for tobacco manufacturers (\$100) and tobacco product wholesalers (\$250). Based on information from the Department of Revenue Administration there are 87 tobacco manufacturers and 55 tobacco wholesalers licensed in NH under current law. These additional license types will generate an estimated \$22,450 of additional annual license revenue to Commission. (55 wholesalers x \$250 and 87 manufacturers x \$100).

The DRA assumes the bill would establish a requirement for wholesalers and manufacturers of tobacco products to be licensed with the Liquor Commission in addition to the DRA prior to engaging in business in this state. Under this bill the current DRA license fees will become certification fees. The DRA does not anticipate an impact on the revenue it collects. The DRA assumes the bill would not result in any additional administrative costs that could not be absorbed with the current operating budget.

AGENCIES CONTACTED:

Liquor Commission and Department of Revenue Administration